Appendix V.

[Vide item III (1) at page 624, supra.]

L.A. BILL No. 26 OF 1949.

(As passed by the Assembly.)

A Bill to regulate the leasing of buildings and for control of rent in the Province of Madras.

Whereas it is expedient to regulate the letting of residential and non-residential buildings and to control the rents of such buildings and to prevent unreasonable eviction of tenants therefrom in the Province; It is hereby enacted as follows :—

Short title, application, commencement and duration.

1. (1) This Act may be called the Madras Buildings (Lease and Rent Control) Act, 1949.

(2) It applies to the City of Madras, all municipalities within the Province and such other areas as may be notified by the Provincial Government in the *Fort St. George Gazette*.

(3) It shall come into force at once and shall remain in force up to and inclusive of the 30th September 1950.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " building " means any building or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes and includes—

(*a*) the garden, grounds and out houses, if any, appurtenant to such building, hut or part of such building or hut and let or to be let along with such building or hut,

(*b*) any furniture supplied by the landlord for use in such building or hut or part of a building or hut,

but does not include a room in a hotel or boarding house;

(2) " Controller " means any person appointed to perform the functions of a Controller under this Act;

(3) " landlord " includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent if the building were let to a tenant;

(4) " tenant " means any person by whom or on whose account rent is payable for a building and includes a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building by its tenant or a person to whom the collection of rents or fees in a public market cart-stand or

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slaughter-house or of rents for shops has been farmed out or leased by a municipal council or local board or the Corporation of Madras.

3. (1) Every landlord shall, within seven days after his building becomes vacant by the landlord ceasing to occupy the building or by the termination of a tenancy, give notice thereof in writing to the Controller : **Notice of vacancy by landlord.**

Provided that this sub-section shall not apply to a building the monthly rent of which does not exceed thirty rupees.

(2) If, within a week of the receipt of a notice under sub-section (1) by the Controller, the Provincial Government or any officer empowered by them in that behalf does not intimate to the landlord in writing that the building is required by them for any Governmental purposes or for use by any public institution under Government control or any officer of the Government, the landlord shall be at liberty to lease the building to any tenant.

(3) If the Provincial Government require the building for any purpose specified in sub-section (2), the Provincial Government shall be deemed to be the tenant of the landlord as from the date of the receipt of the notice under sub-section (1) and the terms of the tenancy shall be such as may be agreed upon between them :

Provided that the rate of rent shall not exceed the fair rent that may be payable under the provisions of this Act.

4. (1) The Controller shall on application by the tenant or landlord of a building fix the fair rent for such building after holding such inquiry as the Controller thinks fit. **Determination of fair rent.**

(2) In fixing the fair rent under this section the Controller shall have due regard—

(*a*) to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 1st April 1940 ;

(*b*) to the rental value as entered in the property tax assessment book of the municipal council, local board or the Corporation of Madras, as the case may be, relating to the period mentioned in clause (*a*) ;

(*c*) to the circumstances of the case, including any amount paid by the tenant by way of premium or any other like sum in addition to rent after the 1st April 1940.

(3) In fixing the fair rent of residential buildings. the Controller may allow—

(i) if the rent or rental value referred to in sub-section (2) does not exceed Rs. 25 per mensem, an increase not exceeding 8-1/3 per cent on such rate or rental value ;

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(ii) if the rate of rent or rental value exceeds Rs. 25 per mensem but does not exceed Rs. 50 per mensem an increase not exceeding 12½ per cent on such rate or rental value;

(iii) if the rate of rent or rental value exceeds Rs. 50 per mensem an increase not exceeding 25 per cent on such rate or rental value:

Provided that in the case of residential building which has been constructed after the 1st April 1940, the percentage of increase shall not exceed 25, 37½ and 50 respectively.

(4) In fixing the fair rent of non-residential buildings, the Controller may allow—

(i) if the rate of rent or rental value referred to in sub-section (2) does not exceed Rs. 50 per mensem, an increase not exceeding 37½ per cent on such rate or rental value;

(ii) if the rate of rent or rental value exceeds Rs. 50 per mensem, an increase not exceeding 50 per cent on such rate or rental value:

Provided that in the case of a non-residential building which has been constructed after the 1st April 1940, the percentage of increase shall not exceed 50 and 100 respectively.

(5) In the case of a building for which the fair rent has been fixed before the 1st October 1946, the Controller shall on the application of the landlord allow such increase in the fair rent as in the opinion of the Controller, the landlord is entitled to under this section.

Increase in fair rent in what cases admissible.

5. When the fair rent of a building has been fixed under section 4, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building is then in the occupation of a tenant, at his request:

Provided that the fair rent as increased under this section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed:

Provided further that any dispute between the landlord and tenant in regard to any increase claimed under this section shall be decided by the Controller.

Landlord not to claim anything in excess of fair rent.

6. When the Controller has determined the fair rent of a building—

(*a*) the landlord shall not claim or receive any premium or other like sum in addition to fair rent or any rent in excess

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of such fair rent, but the landlord may stipulate for, and receive as advance, an amount not exceeding one month's rent ;

(*b*) any agreement for the payment of any sum in addition to rent or of rent in excess of such fair rent, except in cases falling under section 5 or clause (*a*) of this section, shall be null and void in respect of such addition or excess and shall be construed as if it were an agreement for payment of the fair rent ;

(*c*) any sum paid in excess of the fair rent, whether before or after the 1st October 1946 in respect of the use of the building after that date, shall be refunded to the person by whom it was paid or, at the option of such person, otherwise adjusted.

7. (1) A tenant in possession of a building shall not be evicted therefrom, whether in execution of a decree or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this section : **Eviction of tenants.**

Provided that nothing contained in this section shall apply to a tenant whose landlord is the Provincial Government :

Provided further that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Controller shall decide whether the denial or claim is *bona fide* and if he records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a Civil Court and the Court may pass a decree for eviction on any of the grounds mentioned in this section, notwithstanding that the Court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied—

(i) that the tenant has not paid or tendered the rent due by him in respect of the building, within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable, or

(ii) that the tenant has after the 1st October 1946 without the written consent of the landlord—

(*a*) transferred his right under the lease or sub-let the entire building or any portion thereof, or

(*b*) used the building for a purpose other than that for which it was leased, or

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(iii) that the tenants has committed such acts of waste as are likely to impair materially the value or utility of the building, or

(iv) that the tenant has been guilty of such acts and conduct which are a nuisance to the occupiers of buildings in the neighbourhood, or

(v) that where the building is situated in a place other than a hill-station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause,

the Controller shall make an order directing the tenant to put the landlord in possession of the building and if the Controller is not so satifised, he shall make an order rejecting the application.

(3) (*a*) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession—

(i) in the case of a residential building, if he requires it for his own occupation and if he is not occupying a residential building of his own in the city, town or village concerned;

(ii) in the case of a non-residential building, if he is not occupying for purposes of a business which he is carrying on, a non-residential building in the city, town or village concerned which is his own or to the possession of which he is entitled :

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period :

Provided further that where a landlord has obtained possession of a building under this clause, he shall not be entitled to apply again under this clause—

(i) in case he has obtained possession of a residential building, for possession of another residential building of his own;

(ii) in case he has obtained possession of a non-residential building, for possession of another non-residential building of his own.

(*b*) The Controller shall, if he is satisfied that the claim of the landlord is *bona fide*, make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application :

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

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(4) Where a landlord who has obtained possession of a building in pursuance of an order under sub-section (3) does not himself occupy it within one month of the date of obtaining possession, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of the building and the Controller shall make an order accordingly.

(5) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding fifty rupees be paid by such landlord to the tenant.

(6) Where an application under sub-section (2) or sub-section (3) for evicting a tenant has been rejected by the Controller, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same terms and conditions as before and shall not be terminable by the landlord except on one or more of the grounds mentioned in sub-section (2) or sub-section (3).

Landlord not to interfere with amenities enjoyed by the tenant.

8. (1) No landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

(3) If the Controller on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities.

Execution of orders.

9. Every order made under section 7 or section 8 and every order passed on appeal under section 12 shall be executed—

(i) in the City of Madras, by the Principal Judge of the Madras City Civil Court and during the vacation of that Court, by the Vacation Judge of the Court of Small Causes, Madras;

(ii) elsewhere, by the Subordinate Judge or if there are more than one Subordinate Judge, by the Principal Subordinate Judge having original jurisdiction over the area in which the building is situated or, if there is no such Subordinate Judge, by the District Judge having jurisdiction,

as if it were a decree passed by him.

Decisions which have become final not to be reopened.

10. The Controller shall summarily reject any application under sub-section (2) or under sub-section (3) of section 7 which raises between the same parties or between parties

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under whom they or any of them claim, substantially the same issues as have been finally decided or as purport to have been finally decided, in a former proceeding—

(i) under the Madras House Rent Control Order, 1945, or the Madras Non-Residential Building Rent Control Order, 1945, or

(ii) under the Madras Buildings (Lease and Rent Control) Act, 1946, or on or after the 1st October 1948, under that Act, on the footing that it was in force at the relevant time, or — **Madras Act XV of 1946.**

(iii) under the Act aforesaid as applied to the Pudukkottai and Banganapalle States, under the Extra-Provincial Jurisdiction Act, 1947, on the footing aforesaid, or — **Central Act XLVII of 1947.**

(iv) under the Madras Buildings (Lease and Rent Control) Ordinance, 1949, or — **Madras Ordinance V of 1949.**

(v) under this Act.

Conversion of non-residential buildings and failure by landlord to make necessary repairs.

11. (1) No residential building shall be converted into a non-residential building except with the permission in writing of the Controller.

(2) If a landlord fails to make the necessary repairs to the building within a reasonable time after notice is given by the tenant, it shall be competent for the Controller to direct on application by the tenant that such repairs may be made by the tenant and that the cost thereof may be deducted from the rent which is paybale by him.

Appeal.

12. (1) (*a*) The Provincial Government may, by general or special order notified in the *Fort St. George Gazette*, confer on such officers and authorities as they think fit, the powers of appellate authorities for the purposes of this Act, in such areas or in such classes of cases as may be specified in the order.

(*b*) Any person aggrieved by an order passed by the Controller may, within fifteen days from the date of receipt of such order, prefer an appeal in writing to the appellate authority having jurisdiction.

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall send for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal.

(4) The decision of the appellate authority and subject only to such decision, an order of the Controller shall be final and shall not be liable to be called in question in any Court of law whether in a suit or other proceeding or by way of appeal or revision.

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13. Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Fort St. George Gazette*, exempt any building or class of buildings from all or any of the provisions of this Act. **Exemptions.**

14 The executive authority of a municipal council or local board or the Revenue Officer of the Corporation of Madras shall, on application made in this behalf and on payment of such fee as may, from time to time, be fixed by the Provincial Government by notification in the *Fort St. George Gazette*, grant to the applicant a certified copy of the extract from the property-tax assessment book of the municipal council, local board or the Corporation of Madras, as the case may be, showing the rental value of the building or buildings in respect of which application has been made, relating to the period specified in the application. Such certified copy shall be received as evidence of the facts stated therein, in proceedings under this Act. **Executive authorities of local bodies to furnish certified extracts from property tax assessment books.**

15. Every landlord and every tenant of a building shall be bound to furnish to the Controller or any person authorized by him in that behalf, such particulars in respect of the building as may be prescribed by rules made under this Act. **Landlord and tenant to furnish particulars.**

16 (1) If any person contravenes any of the provisions of sub-section (1) of section 3, clause (*a*) of section 6, sub-section (1) of section 8, sub-section (1) of section 11 and section 15, he shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both. **Penalties.**

Central Act V of 1898. (2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees when awarding punishment under sub-section (1).

17. (1) The Provincial Government may make rules to carry out the purposes of this Act. **Power to make rules.**

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the procedure to be followed by Controllers and appellate authorities in the performance of their functions under this Act,

(*b*) the manner in which notices and orders under this Act shall be given or served.

(3) All rules made under this section shall be published in the *Fort St. George Gazette*, and upon such publication shall have effect as if enacted in this Act.

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Continuance in force of existing proceedings, orders, etc.

18 (1) All proceedings commenced and all action taken—

(i) under the Madras House Rent Control Order, 1945, or the Madras Non-Residential Building Rent Control Order, 1945, or

(ii) under the Madras Buildings (Lease and Rent Control) Act, 1946 (hereinafter in this section and in sections 20 and 21 referred to as the said Act) or on or after the 1st October 1948, under that Act, on the footing that it was in force at the relevant time, or

Madras Act XV of 1946.

(iii) under the said Act as applied to the Pudukkottai and Banganapalle States under the Extra-Provincial Jurisdiction Act, 1947, on the footing aforesaid, or

Central Act XLVII of 1947.

(iv) under the Madras Buildings (Lease and Rent Control) Ordinance, 1949 (hereinafter in this section and in section 20 referred to as the said Ordinance),

Madras Ordinance V of 1949.

and pending at the commencement of this Act, shall, so far as may be, be deemed to have been commenced or taken under the corresponding provisions of this Act and be continued subject to the provisions thereof.

(2) All orders passed or deemed or purporting to have been passed and all decisions given or deemed or purporting to have been given—

(i) under the Madras House Rent Control Order, 1945, or the Madras Non-Residential Building Rent Control Order, 1945, or

(ii) under the said Act, or on or after the 1st October 1948, under that Act, on the footing that it was in force at the relevant time, or

(iii) under the said Act as applied to the States aforesaid on the footing aforesaid, or

(iv) under the said Ordinance,

and in which fair rent has been fixed shall continue in force until they are superseded or modified under this Act by the authority competent to do so.

Saving on expiration of Act.

19. The expiration of this Act shall not—

(*a*) render recoverable any sum which during the continuance thereof was irrecoverable or affect the right of a tenant to recover any sum which during the continuance of this Act was recoverable by him thereunder,

(*b*) affect any liability incurred under this Act or any punishment incurred in respect of any contravention of this Act or any order made thereunder,

(*c*) affect any investigation or legal proceeding in respect of any such liability or punishment as aforesaid, and any such investigation or legal proceeding may be instituted, continued or enforced and any such punishment may be imposed, as if

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Saving and validation.

20. (1) Any rule or order made or deemed or purporting to have been made, any decision or direction given or deemed or purporting to have been given, any notification issued or deemed or purporting to have been issued, any action or proceeding taken or deemed or purporting to have been taken, or anything done or deemed or purporting to have been done—

(i) under any provision of the said Act, and in force immediately before the 1st October 1948, or

(ii) on or after the 1st October 1948 under any provision of the said Act on the footing that the said Act was in force at the relevant time, or

Central Act XLVII of 1947.

(iii) under any provision of the said Act as applied to the Pudukkottai and Banganapalle States under the Extra-Provincial Jurisdiction Act, 1947, on the footing aforesaid, or

(iv) under any provision of the said Ordinance,

shall, subject to any subsequent modification or cancellation thereof purporting to have been made on or after that date under the said Act on the footing that it was in force at the relevant time, or made under the said Act as applied to the States aforesaid on that footing or under the said Ordinance, be deemed to be a rule or order made, decision or direction given, notification issued, action or proceeding taken, or thing done, under the corresponding provision of this Act.

(2) Any liability or penalty incurred or deemed or purporting to have been incurred, any punishment awarded or deemed or purporting to have been awarded, any application made or deemed or purporting to have been made and any prosecution commenced or deemed or purporting to have been commenced—

(i) under any provision of the said Act before the 1st October 1948, or

(ii) on or after the 1st October 1948, under any provision of the said Act on the footing that it was in force at the relevant time, or

(iii) under any provision of the said Act as applied to the States aforesaid on the footing aforesaid, or

(iv) under any provision of the said Ordinance,

shall be deemed to have been incurred, awarded, made or commenced under the corresponding provision of this Act.

Indemnity for acts, etc., done after expiry of Madras Act XV of 1946.

21. (1) No suit, prosecution or other legal proceeding shall lie in any Court against any officer or servant of the Provincial Government or any person acting under his direction or aiding or assisting him—

(*a*) for, or on account of, or in respect of any sentence passed, any decision given or any act ordered or done by him, in exercise of any jurisdiction or power purporting to have been conferred on him by or under the said Act or the said Act as applied to the Pudukottai and Banganapalle States, or

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(*b*) for carrying out any sentence passed or decision given by any Court or other authority in exercise of any such jurisdiction or power as aforesaid.

(2) No suit or other legal proceeding shall lie against the Provincial Government for, or on account of, or in respect of, any act, matter or thing whatsoever, purporting to have been done in pursuance of or under the said Act or the said Act as applied to the States aforesaid.

(3) Sub-section (1) and (2) shall have effect although the said Act or the said Act as applied to the States aforesaid was not or might not have been in force at the relevant time.

Repeals. **22.** The Madras Buildings (Lease and Rent Control) Act, 1946, the Madras Buildings (Lease and Rent Control) Ordinance, 1949, and the Madras Buildings (Lease and Rent Control) Act, 1946, as applied to the Pudukkottai and Banganapalle States under the Extra-Provincial Jurisdiction Act, 1947, are hereby repealed. **Madras Act XV of 1946. Madras Ordinance V of 1949. Madras Act XV of 1946. Central Act XLVII of 1947.**

APPENDIX VI.

[Vide item III (2) at page 637 supra.]

L.A. BILL No. 27 OF 1949.

(As passed by the Assembly.)

A Bill further to amend the Madras Prohibition Act, 1937.

WHEREAS it is expedient further to amend the Madras Prohibition Act, 1937; It is hereby enacted as follows:— **Madras Act X of 1937.**

Short title. **1.** This Act may be called the Madras Prohibition (Amendment) Act, 1949.

Insertion of new section 17-A in Madras Act X of 1937. **2.** (1) In the Madras Prohibition Act, 1937, after section 17, the following section shall be inserted, namely :— **Madras Act X of 1937.**

Exemption of members of armed Forces, etc. "17-A. (1) The Provincial Government, may, by notification and subject to such conditions as they think fit, exempt members of the armed forces of the Dominion of India or of any other armed forces raised or maintained by the Dominion or attached to or operating with any of its armed forces, and the members of the medical or other staff attached to any of the armed forces aforesaid, from all or any of the provisions of this Act.

(2) When issuing a notification under sub-section (1), the Provincial Government shall have power to provide that